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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

JOSE ALVARADO

Plaintiff,

- against -

MOTHER JONES, LLC

Defendant.

Case No. 4:19-cv-06417 (JST)

**DECLARATION OF
COUNSEL IN RESPONSE TO
COURT'S ORDER TO SHOW
CAUSE, DATED 4/16/20**

Judge: Hon. Jon S. Tigar

I, RICHARD LIEBOWITZ, hereby swear under the penalty of perjury that the following
is true and correct to the best of my personal knowledge.

1
2 1. I respectfully submit this declaration in response to the Order to Show Cause,
3 dated April 16, 2020, entered by the Honorable Jon S. Tigar (U.S.D.J.) (the “OSC”).

4 2. The docket shows that on October 21, 2019, I filed a motion for leave to appear
5 *pro hac vice* [Dkt. #7] This motion was filed only after Judge Donato’s “Order of Disbarment”
6 *In the Matter of Richard P. Liebowitz*, 3:19-mc-802278-JD, which was entered two weeks
7 earlier on October 7, 2019.

8
9 **Background of Liebowitz Law Firm, PLLC**

10 3. I am an attorney licensed to practice in the State of New York and the founding
11 member and principal of Liebowitz Law Firm, PLLC (the “Firm”), which is headquartered in
12 Valley Stream, New York. The Firm specializes in enforcing the rights of copyright holders
13 against media companies and other outfits which expropriate the intellectual property rights of
14 authors and original creators.

15
16 4. Since January 2016, the Firm has filed more than 2300 infringement lawsuits in
17 federal courts of various jurisdictions in an effort to vindicate the public interest and enforce the
18 constitutional and statutory rights of copyright holders.

19 5. Copyright infringement cases brought by individual copyright holders do more
20 than compensate victims. They secure intellectual property rights from widespread invasion by
21 large corporations, maintain order in society, and promote the Progress of the Sciences and the
22 useful Arts. *See Apple Computer, Inc. v. Franklin Computer Corp.*, 714 F.2d 1240, 1255 (3d
23 Cir. 1983) (public interest can only be served by upholding copyright protections, thus
24 preventing misappropriation of skills, creative energies, and resources invested in protected
25 work); *see also Walt Disney Co. v. Best*, No. 88 Civ. 1595(SWK), 1990 WL 144209, at *4
26 (S.D.N.Y. Sept. 26, 1990) (one of the primary purposes of the Copyright Act is to “deter future
27
28

1 infringements.”); *Energy Intelligence Grp., Inc. v. Kayne Anderson Capital Advisors, LP*, No.
 2 CV H-14-1903, 2018 WL 2048896, at *12 (S.D. Tex. May 2, 2018) (“The protection of
 3 copyrights is a vindication of the public interest, and the statutory penalty for copyright
 4 infringement is intended not just to compensate the copyright owner, but to deter Kayne and
 5 others like them from committing copyright infringement.”); 3 NIMMER § 14.06[A], at 14–80.

6 6. Copyright infringement of photographs on-line has become a national epidemic.
 7 Northern California is not immune, as there are many companies located in this District which
 8 violate the rights of copyright holders.
 9

10 **Judge Donato’s “Order of Disbarment” Does Not Preclude *Pro Hac Vice* Admission**

11 7. On October 7, Judge Donato entered an “Order of Disbarment” which ordered
 12 that I be “removed from the membership roll of the bar of this Court.” *In the Matter of Richard*
 13 *P. Liebowitz*, 19-mc080228 (JD) [Dkt. #3] An application for reconsideration of Judge
 14 Donato’s Order is currently pending.
 15

16 8. Significantly, I was never a member of the California State Bar (and therefore not
 17 on the membership roll of the bar of this Court). Moreover, Judge Donato did not preclude me
 18 from appearing *pro hac vice* in cases within this District; Judge Donato’s order only precludes me
 19 from filing cases in this District in the absence of local counsel.

20 9. An attorney is not required to be a member of this Court in order to appear *pro*
 21 *hac vice*. As such, Judge Donato’s Order should not be a basis for this Court to revoke my *pro*
 22 *hac vice* status.
 23

24 **I am NOT Engaged in “Regular Practice” in California**

25 10. I do not reside in California nor am I regularly employed in California.

26 11. In the Northern District of California, between January 17, 2019 and the present
 27 date, I have served as counsel in twenty-one actions (21) on behalf of copyright holders,
 28

1 seventeen (17) of which involved *pro hac vice* appearances, which is an infinitesimal fraction of
2 the infringement cases filed by the Firm. A table of cases, as well as the work performed in each
3 case, is attached hereto as Schedule A.

4 12. The Court has indicated that I may be “regularly engaged in the practice of law in
5 the State of California” [citing L.R. 11-3(b)(2)] as a result of having appeared in twenty-one
6 actions in the period of less than one-year. Respectfully, I do not agree that my filings constitute
7 regular engagement in the practice of law in the State of California. Considering the large
8 volume of cases the Firm files nationwide, 21 cases filed within a year (three of which were
9 transferred from New York) is actually quite *infrequent*.

11 13. The Court should also consider that many of the cases filed are simple actions,
12 involving a single photograph of modest value. The frequency with which our Firm files cases
13 is not to be measured against the frequency with which, for example, Anti-Trust cases are filed.
14 The Court should therefore take into consideration the nature and type of actions being filed.

15 14. The Local Rules do not specify the actual number of cases that may be filed in
16 any given time *pro hac vice* and therefore it would be inequitable to strike my prior *pro hac vice*
17 admissions or refuse to accept any future motions to appear *pro hac vice*. If the Judicial
18 Committee seeks to revise the Local Rules to place numerical limitations on the number of cases
19 that may be filed by an out-of-state attorney within any given month, I would fully and faithfully
20 comply with such Rules. But as it stands, there are no fixed parameters or limitations on the
21 number of cases that may be filed in a given time period.

22 15. Accordingly, I respectfully request that the Court decline to revoke my prior *pro*
23 *hac vice* admission. Plaintiff also respectfully requests that the Court decline to revoke my *pro*
24 *hac vice* admission in this case.

25
26
27
28 Dated: Valley Stream, New York

1 April 27, 2020

2 LIEBOWITZ LAW FIRM, PLLC

3 By: /s/richardliebowitz

4 Richard Liebowitz (RL 8605)

5 (*Admitted Pro Hac Vice*)

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